UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,794	12/28/2001	Keiichi Teramoto	217811US2RD	3076

			EXAMINER
22850	7590	08/09/2006	SCHUBERT, KEVIN R

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

ART UNIT	PAPER NUMBER
2137	

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/028,794	TERAMOTO ET AL.
	Examiner	**Art Unit**	
	Kevin Schubert	2137	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 July 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's Remarks that the 103(a) rejection of claim 1 under Davis in view of Nagai have been fully and carefully considered, but Examiner maintains the previous rejection. Specifically, Applicant presents the following two arguments:
1) part d is not met
2) no motivation to combine

Regarding 1), Examiner has stated the following in the previous action (mailed 4/26/06):
"Davis discloses that a secure boot device may maintain an encrypted data region, comprising data such as an encrypted boot-up instruction (e.g. Col 3, lines 32-34). The encrypted data region is shared between the secure boot device and a host processor. Processes associated with a host processor request an encrypted boot-up instruction, receive an encrypted boot-up instruction, and map an encrypted boot-up instruction to a process space of a host processor (e.g. Col 3, lines 34-36). Further, the host processor may decrypt the encrypted boot-up instruction using a shared secret key (e.g. Col 3, lines 36-39)" (action mailed 4/26/06: page 4, lines 16-22).

Applicant does not appear to contest that the foregoing meets the claim language, but rather contends that the foregoing is not what Davis discloses (Remarks: page 3, line 17). Yet, Applicant provides no statements as to how any of the foregoing language is believed to be erroneous. In contrast, Applicant only provides an unsubstantiated generalization (Remarks: page 3, lines 17-26) which even if true does not preclude Examiner's interpretation of the Davis reference presented above. Applicant then contests that "the '063 patent's disclosure that 'a secure boot device responds to the host request with the encrypted boot-up instruction' cannot be used to support the Examiner's conclusion that 'the encrypted data region is shared between the secured boot device and a host processor" (Remarks: page 3, line 26 to page 4, line 1). Examiner disagrees. As taught by Davis, a secure boot device may maintain an encrypted data region, comprising data such as an encrypted boot-up instruction. This encrypted data region shared between the secure boot device and the host processor is mapped from the secure boot device to the host processor (see also Col 3, lines 30-40). Further, the data is valid only with respect to a common key as both the secure boot device and the host processor must utilize a shared secret key (Col 3, lines 36-39).

Applicant further submits that Examiner has not identified the "client process". Examiner notes that such expansive language as a "client process" may be met, for example, by the processes associated with the host processor which assist in mapping data from the shared data region to a new process space.

Regarding 2), Applicant argues motivation. Applicant asserts that "merely stating that the suggested combination makes a more robust system is not adequate motivation" (Remarks: page 5, lines 14-15). To begin with, a prima facie case of motivation requires that a desirability for combination exist either expressly in the reference or in the knowledge available to one of ordinary skill in the art (MPEP 2143.01). Thus, if the combination makes the system "more robust", a prima facie case for motivation has been established.

Further, Examiner notes that Applicant's statement is an incomplete portrayal of the motivation provided. As stated by Examiner, the combination "makes the system more robust by facilitating data management of the encrypted data region" (page 3, lines 10-11) because Nagai affords the opportunity for setting and monitoring address information of the shared encrypted data region in an encrypted attribute register (page 3, lines 7-8). Thus, Examiner has indicated not just that the combination makes the system more robust (which in itself is sufficient) but has also provided reasoning supporting such a statement.